

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPERIOR COURT
C.A. NO. 87-1816

THERESA KYTE, et al,

Plaintiffs,

v.

PHILIP MORRIS INCORPORATED,
et al,

Defendants

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PLAINTIFFS ESTIMATE OF UNLAWFUL
CIGARETTE SALES TO MINORS

As of this date, defendants have not cooperated in providing discovery as to the dollar amounts of sales of cigarettes, in particular Marlboro cigarettes, to minors in this Commonwealth. Until such time as this discovery is provided, the plaintiffs perforce must rely upon published data by government agencies and in the trade press. This pleading sets forth the factual basis for the estimates provided to this Court at Par.2 of the accompanying "Plaintiffs Rule 37 Motion to Require Defendant Store 24 to Provide Cigarette Sales Data," for the limited purpose of enabling this Court to assess the relevancy of the sought discovery.

A. Store 24, Inc.

At his deposition, Robert Gordon, President and majority shareholder of Store 24, Inc., testified that annual sales at his sundry retail outlets approximated one million dollars

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(\$1,000,000.00). Approximately one-sixth of those sales were of cigarettes. (Deposition, 45-49.) Thus, a typical Store 24 sells roughly three thousand dollars (\$3,000.00) worth of cigarettes weekly. At \$1.50 per pack, approximately two thousand packs of cigarettes are sold at each Store 24 outlet weekly at each Store 24.

Since about 5% of smokers are minors,¹ this would mean that -- assuming that Store 24 customers are statistically representative of the general population -- that about 100 packs are sold to minors weekly. But since part of these sales are by cartons, a conservative estimate is therefore that between 50 and 100 teenagers are sold cigarettes weekly.

B. Philip Morris, Inc.

Marlboros constitute 23.9% of all cigarette sales,² which are concentrated among youth. About 56% of minors who smoke cigarettes choose Marlboros.³

Since about five percent of all smokers are minors,⁴ this means that approximately 12% (or one-eighth) of all

¹Advertising of Tobacco Products: Hearings before the Subcommittee on Health and the Environment of the House of Representatives Committee on Energy and Commerce, 99th Cong., 2d Sess., 510 (1986).

²115 Tobacco Reporter 37 (January, 1988).

³Hearings, supra, 169.

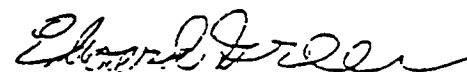
⁴Id., 510.

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Marlboros are illegally sold to minors.

And "Marlboros last year netted a nice round \$2 billion in operating profits,"⁵ so an eighth of its profits -- or a quarter billion dollars (\$250,000,000.00) -- comes from illegal Marlboros sold to teenagers.

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⁵Forbes (February 9, 1987), 108.